



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2019-0272; FRL-8897-02-Region 9]

Air Plan Approval; California; South Coast Air Quality Management District; Stationary Source Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve a revision to the South Coast Air Quality Management District (SCAQMD or “the District”) portion of the California State Implementation Plan (SIP). We are finalizing approval of a revision governing issuance of permits for stationary sources, including review and permitting of major sources and major modifications under part D of title I of the Clean Air Act (CAA or “the Act”). Specifically, the revision pertains to SCAQMD Rule 1325 “Federal PM_{2.5} New Source Review Program.”

DATES: This rule is effective on [Insert date 30 days after date of publication in the *Federal Register*].

ADDRESSES: The EPA has established a docket for this action under Docket No. EPA-R09-OAR-2019-0272. All documents in the docket are listed on the <https://www.regulations.gov> website. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <https://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information. If you need assistance in a language other than English or if you are a

person with disabilities who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Laura Yannayon, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 972-3534 or by email at *yannayon.laura@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document, “we,” “us,” and “our” refer to the EPA.

Table of Contents

- I. Proposed Action
- II. Public Comments and EPA Responses
- III. EPA Action
- IV. Incorporation by Reference
- V. Statutory and Executive Order Reviews

I. Proposed Action

On September 20, 2019,¹ the EPA proposed to approve the following rule into the California SIP. Table 1 lists the rule addressed by this final action with the dates that it was adopted by the local air agency and submitted to the EPA by the California Air Resources Board (CARB or “the State”).

TABLE 1 – SUBMITTED RULE

| Rule # | Rule Title | Amended | Submitted |
|--------|---|----------|-----------|
| 1325 | Federal PM _{2.5} New Source Review Program | 1/4/2019 | 4/24/19 |

The SIP previously contained a version of Rule 1325 “Federal PM_{2.5} New Source Review Program,” approved into the SIP on November 30, 2018.² The EPA’s final approval of the rule identified above in Table 1 has the effect of entirely superseding our prior approval of the same

¹ 84 FR 49492.

² 83 FR 61551.

rule in the current SIP-approved program.

Our proposed action contains more information on the rule and our evaluation.

II. Public Comments and EPA Responses

The EPA's proposed action provided a 30-day public comment period. During this period, we received one non-germane comment and one adverse comment. The full text of both comments is available in the docket for this rulemaking. Below, we summarize the adverse comment and our response.

Comment: The commenter stated that the definition of Volatile Organic Compounds (VOC) as referenced in Rule 1325 does not comport with the definition in 40 CFR 51.100. The definition of VOC in Rule 1325 points to the term as it is defined in SIP-approved SCAQMD Rule 102, which defines VOC as “any volatile organic compound of carbon, excluding methane, carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, ammonium carbonate, and exempt compounds.” The list of “exempt compounds” in Rule 102 has not been updated since 2004 and thus is out of compliance with the federal definition.

Response: Since the publication of our proposed action to approve Rule 1325, the SCAQMD amended Rule 102 on January 10, 2020 and the California Air Resources Board submitted the amended version of SCAQMD Rule 102 to the EPA for incorporation into the SIP on September 16, 2020. On July 9, 2021,³ the EPA took final action to approve amended SCAQMD Rule 102 into the SIP based, in part, on our determination that the amended definition is consistent with the federal definition in 40 CFR 51.100. The EPA's approval of SCAQMD Rule 102 corrected the deficiency identified by the commenter. Accordingly, the EPA is finalizing our action on SCAQMD Rule 1325 as proposed.

III. EPA Action

As explained above, the SCAQMD and the EPA have taken all steps necessary to address the deficiency identified by the commenter. We find that SCAQMD Rule 1325 fulfills all

³ 86 FR 36227.

relevant CAA requirements. As authorized in section 110(k)(3) of the Act, the EPA is fully approving Rule 1325 into the SCAQMD portion of the California SIP. The January 4, 2019 version of Rule 1325 will replace the previously approved version of the rule in the SIP.

IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the rule listed in Table 1 of this preamble. The EPA has made, and will continue to make, these materials available electronically through <https://www.regulations.gov> and in hard copy at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Statutory and Executive Order Reviews

Additional information about these statutes and Executive orders can be found at <https://www.epa.gov/laws-regulations/laws-and-executive-orders>.

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United

States prior to publication of the rule in the ***Federal Register***. A major rule cannot take effect until 60 days after it is published in the ***Federal Register***. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days after date of publication in the *Federal Register*]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur Oxides, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: October 14, 2021.

Deborah Jordan
Acting Regional Administrator,
Region IX.

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52 - APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart F – California

2. Section 52.220 is amended by adding paragraphs (c)(509)(i)(A)(2) and (c)(564) to read as follows:

§52.220 Identification of plan—in part.

* * * * *

(c) * * *

(509) * * *

(i) * * *

(A) * * *

(2) Previously approved on November 30, 2018 in paragraph (c)(509)(A)(1) of this section and now deleted with replacement in paragraph (c)(564)(i)(A)(1), Rule 1325.

* * * * *

(564) New and amended regulations for the following APCDs were submitted on April 24, 2019 by the Governor’s designee.

(i) Incorporation by Reference.

(A) South Coast Air Quality Management District.

(1) Rule 1325, “Federal PM_{2.5} New Source Review Program” amended on January 4, 2019.

(2) [Reserved]

(B) [Reserved]

(ii) [Reserved]

§52.248 [Amended]

3. Section 52.248 is amended by removing and reserving paragraph (f).

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[FR Doc. 2021-22884 Filed: 10/21/2021 8:45 am; Publication Date: 10/22/2021]